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2125 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6115

MAJORITY (202) 225-2927
FACSIMILE (202) 225-2525
MINORITY (202) 225-3641

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November 19, 2009

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The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson:

During the past seven months, the Administration and the Environmental Protection Agency (EPA) have taken a number of unprecedented actions to pursue regulation of greenhouse gas emissions under the Clean Air Act. On April 17, 2009, EPA published its proposed "endangerment finding," and more recently issued a final greenhouse gas reporting rule, a proposed rule to regulate greenhouse gas emissions from light-duty vehicles, and a proposed rule to begin regulating such emissions from major industrial and other large sources. If finalized and upheld by the courts, these rules will apply to thousands of entities and impose billions of dollars in new compliance costs on American businesses and consumers annually. Beyond these actions, your agency is also considering additional global warming regulations and future rulemakings.

We write regarding the cumulative impacts of these final and proposed regulatory actions on jobs and the rate of economic growth of the United States, especially within the industrial and manufacturing base of the nation. We are concerned that the Administration and EPA have been rushing to pursue global warming regulations, which have the potential to be the most significant, complex, costly and burdensome in EPA's history, without fully considering the potential adverse direct and indirect impacts on U.S. employment. Our review of EPA's recent reporting rule and proposed regulations reinforces our concern that cumulatively such regulations have the potential to seriously impede economic growth and discourage new investment in the United States. The following summarizes the complex nature and scope of these regulatory actions:

1. **Final Mandatory Reporting Rule:** Under the “Mandatory Reporting of Greenhouse Gases” (Mandatory Reporting Rule),¹ EPA seeks to establish a national system requiring monitoring and reporting of emissions of carbon dioxide and other greenhouse gases. This 261-page preamble and final rule will impose complex data collection and reporting requirements that EPA estimates during the first year will potentially affect approximately 30,000 facilities. These facilities will need to expend resources to determine whether they are subject to the rule; and we understand EPA estimates 10,152 facilities will be required to report, while the remaining 19,848 will determine during the first year that they fall below the reporting thresholds. Facilities subject to this rule will be required to purchase and install monitoring equipment, train staff, develop internal electronic data management and recordkeeping systems and begin collecting data by January 1, 2010 -in less than 2 months. The annual reports must be certified and the facility’s certifying official is subject to significant penalties for false or omitted information, including fines and imprisonment. Any errors in annual reports must be corrected within 45 days of discovery or notification by EPA. We understand EPA estimates compliance costs for covered entities required to report to be \$132 million for the first year and \$89 million annually. EPA is considering a future rulemaking that would further expand the reporting requirements to sweep in a significant number of additional sectors and facilities.
2. **Proposed Light-Duty Vehicles Rule:** Under the “Proposed Rulemaking To Establish Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy” (Proposed Light-Duty Vehicle Rule),² EPA seeks to impose new fuel economy and greenhouse gas standards for light-duty vehicles. This rule is also very lengthy and complex, and would affect companies that manufacture or sell new light-duty vehicles, light-duty trucks, and medium-duty passenger vehicles, as well as consumers who purchase those new vehicles and taxpayers that are now supporting certain of the auto manufacturers. The 337-page preamble and proposed rule would require commercial deployment of new technologies to improve fuel economy to achieve increasingly stringent standards beginning in 2012. EPA estimates that under the proposed rule the average car/truck vehicle compliance costs would begin at \$368 per vehicle and increase to \$1,050 by 2016 and that the projected vehicle compliance costs would continue in that range in future years. EPA estimates the total annual costs associated with the proposed light-duty vehicle program would begin at \$5.4 billion in 2012 and increase to approximately \$18 billion in 2020, with annual costs to continue in that range in future decades.
3. **Proposed Tailoring Rule:** Under the “Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule” (Tailoring Rule),³ EPA would begin regulating emissions from industrial and large stationary sources under two complex, expensive and time-consuming Clean Air Act permitting programs: (1) the Prevention of Significant Deterioration (PSD) program, which is a preconstruction review and permitting program that requires installation of expensive “Best Available Control Technology” pollution control

¹ See <http://www.epa.gov/climatechange/emissions/downloads09/FinalMandatoryGHGPreamble.pdf> and <http://www.epa.gov/climatechange/emissions/downloads09/FinalMandatoryGHGReportingRule.pdf>; see also 74 Fed. Reg. 56,260 (October 30, 2009).

² See <http://edocket.access.gpo.gov/2009/pdf/E9-22516.pdf>; see also 74 Fed. Reg. 49,454 (September 28, 2009).

³ See <http://www.epa.gov/nsr/documents/GHGTailoringProposal.pdf>; see also 74 Fed. Reg. 55,292 (October 27, 2009).

equipment (determined on a case-by-case basis); and (2) the title V program, which is an operating permit program administered primarily by State authorities. EPA has promulgated this proposed rule because under the Clean Air Act its regulation of greenhouse gas emissions from motor vehicles will automatically trigger PSD permitting requirements for an estimated 41,000 new and modified facilities, and title V permitting requirements for over 6 million entities. Relying on legal doctrines that courts have in the past construed narrowly, EPA proposes to phase in this permitting by initially exempting smaller sources and limiting application of the PSD program to only 400 large sources, and the title V permitting requirements to approximately 14,000 large sources. However, should the Tailoring Rule be successfully challenged in the courts, tens or hundreds of thousands of U.S. entities may be subject to new permitting regulations and global warming litigation. Further, after six years EPA plans a new rulemaking that would potentially expand the permitting requirements to additional sources. There appear to be no overall cost estimates associated with regulation of these new sources under the PSD and title V programs, or estimates of the potential costs to the economy, including costs associated with delays or the halting of new construction projects because of the new permitting requirements.

Given the billions of dollars in compliance costs, complexity of the reporting and permitting requirements, potential enforcement actions, potential fines and penalties, and threats of citizen suits and other third-party litigation, we have serious concerns that the Administration and EPA's proposed global warming regulations will cumulatively result in job losses, and contribute to the flight of U.S. manufacturing and other businesses overseas – stifling future economic growth. Before EPA makes a positive endangerment finding and proceeds with regulation, we believe Congress and the American public should know the potential employment impacts in the United States of EPA's proposed regulatory actions. Consistent with this, it is our understanding that EPA is obligated pursuant to Executive Order 12866 to assess the costs anticipated from significant regulatory actions, including adverse effects on employment. We also note that Section 321 of the Clean Air Act, 42 U.S.C. 7621, expressly requires EPA to conduct continuing evaluations of potential loss or shifts of employment which may result from the administration or enforcement of provisions of the Act. Accordingly, we request you respond to the following inquiries and document requests:

1. What overall job losses and/or shifts in employment in the United States does EPA estimate will occur if the agency issues a final positive endangerment finding and moves forward with the full range of greenhouse gas regulations the Administration and EPA believe can be issued under the Clean Air Act?
 - a. Please identify both near-term and longer term job losses in the United States that may result from regulation of greenhouse gases under the Clean Air Act.
 - b. Please also identify when, in what regions of the country, and in what employment sectors such job losses would be expected to occur.
2. What evaluations, if any, has EPA prepared of potential loss or shifts in employment which may result from implementing the proposed light-duty vehicle standard program? Please describe and provide copies of all such evaluations.

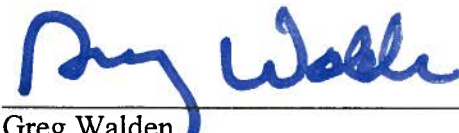
3. What evaluations, if any, has EPA prepared of potential loss or shifts of employment which may result from regulation of greenhouse gases under the PSD program? Please describe and provide copies of all such evaluations.
4. What evaluations, if any, has EPA prepared of potential loss or shifts of employment which may result from regulation of greenhouse gases under the title V program? Please describe and provide copies of all such evaluations.
5. What evaluations, if any, has EPA prepared of overall potential loss or shifts of employment which may result if the proposed Tailoring Rule is not upheld? Please describe and provide copies of all such evaluations.
6. To the extent not already provided above, how many job losses, if any, does EPA estimate may occur in the United States as a result of regulating greenhouse gas emissions under (i) the light-duty vehicle program; (ii) the PSD program; and (iii) the title V program?
 - a. To the extent not already provided above, please identify both near-term and long-term potential job losses in the United States that may result from proposed regulation of greenhouse gases under these specific programs.
 - b. To the extent not already provided above, please also identify when, in what regions of the country, and in what employment sectors such job losses would be expected to occur.
7. With regard to Section 321 of the Clean Air Act, does EPA comply with this provision? If yes, how does EPA comply? If no, please explain.
8. With regard to the Mandatory Reporting Rule, EPA denied apparently reasonable requests for a one-year delay of the reporting requirements to allow adequate time for reporting entities to review the final rule and install monitoring equipment. EPA declined all such requests on the grounds that this would mean the first annual reports would not be received until 2012, "which would likely be too late for many ongoing GHG policy and program development needs." (Preamble, 74 Fed. Reg. at 56,274 (October 30, 2009))
 - a. Is it feasible for up to 30,000 entities affected by this rule, many of which have not previously been subject to similar reporting requirements, to review such a complex rule, announced by EPA on September 22, 2009 but not formally published in the Federal Register until October 30, 2009, to evaluate those requirements and if necessary begin monitoring and data collection by January 1, 2010?
 - b. What are the "ongoing GHG policy and program development needs" referred to in the preamble? Was the denial of the requests for a one-year delay based on statutory requirements or was this a policy determination?

9. What are the potential penalties, including but not limited to monetary penalties and other civil or criminal sanctions, for violations of the (i) Mandatory Reporting Rule; (ii) Proposed Light-Duty Vehicles Standards program; (iii) PSD program; and (iv) title V program? Please provide a separate response for each item, including maximum monetary penalties.
10. Are citizens suits authorized for alleged violations of the (i) Mandatory Reporting Rule; (ii) Proposed Light-Duty Vehicles Standards program; (iii) PSD program; and/or (iv) title V program? Please provide a separate response for each item.
11. What additional rulemakings or programs relating to regulation of greenhouse gas emissions is EPA currently considering? Please identify specifically all such potential rulemakings or programs.
12. Can you provide any assurances that EPA's proposed regulation of greenhouse gases under the Clean Air Act will not result in significant near or long-term job losses or shifts in employment in the United States?
13. If the EPA withholds any documents or information in response to this letter, please provide a Vaughn Index or log of the withheld items. The index should list the applicable question number, a description of the withheld item (including date of the item), the nature of the privilege or legal basis for the withholding, and a legal citation for the withholding claim.

Please provide the written responses and documents requested by no later than three weeks from the date of this letter. Should you have any questions, please contact the Minority Committee staff at (202) 225-3641.

Sincerely,



Joe Barton
Ranking Member

Greg Walden
Ranking Member
Subcommittee on Oversight and Investigations

cc: The Honorable Henry A. Waxman
Chairman

The Honorable Bart Stupak
Chairman
Subcommittee on Oversight and Investigations